

V. REMARKS

Claims 5 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. The claims are amended to obviate the rejection.

Withdrawal of the rejection is respectfully requested.

Claims 1-4 and 10 are rejected under 35 U.S.C. 102 (e) as unpatentable over Saitoh et al. (U.S. Patent No. 6,127,039). The rejection is respectfully traversed.

Claim 1 is directed to a magnetic recording medium that includes a lower non-magnetic layer containing at least a carbon black and a lower layer binder resin on a non-magnetic support and an upper magnetic layer having a thickness of 0.30 μm or less on the lower non-magnetic layer. Claim 1 recites that the upper magnetic layer contains at least a ferromagnetic powder, an upper layer binder resin, and an abrasive having a Mohs hardness of 6 or higher and a smaller average particle size than the thickness of the upper magnetic layer and the lower layer binder resin has a three-dimensional crosslinking structure with a centerline average roughness (Ra) of the upper magnetic surface is $1.0 \text{ nm} \leq \text{Ra} \leq 8.0 \text{ nm}$.

Amended claim 1 includes the features of originally filed claim 4. The features of originally filed claim 4, namely the features that a centerline average roughness (Ra) of the upper magnetic surface is $1.0 \text{ nm} \leq \text{Ra} \leq 8.0 \text{ nm}$, is not disclosed in Saitoh. It is respectfully submitted that the rejection is improper because the applied art fails to teach each element of claim 1. As a result, it is respectfully submitted that claim 1 is allowable over the applied art.

Claims 2 and 3 depend from claim 1 and include all of the features of claim 1. Thus, it is respectfully submitted that the dependent claims are allowable at least for the reason claim 1 is allowable as well as for the features they recite.

Claim 10 is directed to of magnetic recording medium that includes a non-magnetic support, a lower non-magnetic layer and an upper magnetic layer. Claim 10 recites that the lower non-magnetic layer contains at least a carbon black and a lower layer binder resin formed on the non-magnetic support with the lower layer binder resin having a molecular chain containing one or more cross-linked unsaturated radical double bonds. Claim 10 also recites that the upper magnetic layer has a thickness of 0.30 μm or less formed on the lower non-magnetic layer with the upper magnetic layer containing at least a ferromagnetic powder, an upper layer

binder resin and an abrasive having a Mohs hardness of 6 or higher and a smaller average particle size than a thickness of the upper magnetic layer. Further, claim 10 recites that the thickness of the upper magnetic layer is 0.05 to 0.30 μm , a thickness of the lower non-magnetic layer is 0.1 to 2.5 μm , the average particle size of the abrasive is 0.01 to 0.2 μm and a centerline average roughness Ra of the upper magnetic layer surface is $1.0 \text{ nm} \leq \text{Ra} \leq 8.0 \text{ nm}$.

Amended claim 10 inherently includes the features of originally filed claim 4. As mentioned above, the features of originally filed claim 4, namely the features that a centerline average roughness (Ra) of the upper magnetic surface is $1.0 \text{ nm} \leq \text{Ra} \leq 8.0 \text{ nm}$, is not disclosed in Saitoh.

It is respectfully submitted that rejection is improper because the applied art fails to teach each element of claim 10 as mentioned above. As a result, it is respectfully submitted that claim 10 is allowable over the applied art.

As stated in the Office Action, claims 5 and 11 would be allowable if rewritten to overcome the rejection is under 35 U.S.C. 112, second paragraph to include all of the limitations of the base claim and any intervening claims.

Withdrawal of the rejection is respectfully requested.

In view of the foregoing, reconsideration of the application and allowance of the pending claims are respectfully requested. Should the Examiner believe anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' representative at the telephone number listed below.

Should additional fees be necessary in connection with the filing of this paper or if a Petition for Extension of Time is required for timely acceptance of the same, the Commissioner is hereby authorized to charge Deposit Account No. 18-0013 for any such fees and Applicant(s) hereby petition for such extension of time.

Respectfully submitted,

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Enclosure(s): Petition for Extension of Time (three months)

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